

NEW HAMPSHIRE STATE BUILDING CODE REVIEW BOARD

Minutes of Meeting

January 13, 2005

Attendance:

Robert Clegg, Chairman, Department of Safety

Jerry Tepe, Board of Architects, licensed architect

Michael Santa, CBO, Governor's Commission on Disability, Architectural barrier/free design

Thomas S Lambert, Chief, NH Association of Fire Chiefs, Municipal Fire

Wayne A. Richardson, NH Building Officials Association, municipal building official

Tedd Evans, Board for Licensing and Regulation of Plumbers, licensed master plumber

James Petersen, PE, Board of Engineers, licensed mechanical engineer

John Tuttle, NH Home Builders Association, Architectural designer - residential

Rick Swain, NH Plumbing & Mechanical Contractors Assoc., mechanical contractor, business

Mark Weissflog, NH Electrical Contractors Business Assoc., licensed master electrician

Excused:

Joel Fisher, Board of Engineers, licensed structural engineer

Absent:

Med Kopczynski, NH Municipal Association

Thomas Malley, Bureau of Electrical Safety and Licensing, licensed master electrician

Fred Baybutt, Associated General Contractors, building contractor - non-residential bldgs.

Wes Golomb, Public Utilities Commission, State energy conservation code office

Laura A. Black, PE - Board of Engineers, licensed electrical engineer

Mark Tibbetts, NH Association of Fire Chiefs, municipal volunteer fire chief

Guests:

Joanne Cassulo - NFIP State Coordinator - OEP

Chair Robert Clegg declared a quorum and called the meeting to order.

PUBLIC HEARING:

Adoption of Appendix G from the IBC - Exhibit 16

Chairman Clegg: Is there anyone here to testify for the public hearing? Step forward. I will ask that you say your name, spell your name, and who you represent.

Joanne Cassulo: Good Morning. I am Joanne Cassulo, C A S S U L O, and I am the State of New Hampshire's Flood Plain Management insurance coordinator. And, Chief Lambert invited me to come today. He asked me to come and talk to you a little bit about the national flood

insurance program and how they compares and contrasts with Appendix G. So, what I thought I would do is give you a little background on the flood insurance program in New Hampshire. And I did prepare a written letter which, I promise I will not go on and read to you all. And what I also did is prepare a geographic information system map that shows you the status of who participates in the program in New Hampshire and those who doesn't. Right now out of the 234 municipalities, 194 participate, 38 do not, and 2 are suspended from the program.

Chairman Clegg: Why are they suspended?

Joanne Cassulo: There is Croyden and Lyman, and they were suspended for failure to adopt the National Flood Insurance Program regulations at town meeting to make it available. That's been years now; I think for Lyman I think its been 8 years. So I do have that map. I don't know if it's appropriate for me to . . .

Chairman Clegg: You can enter it into the . . .are there copies for everyone?

Joanne Cassulo: Yes. So what that means is - if you look at appendix G and the NFIP Regulations what those 194 communities have done is really adopt what is in appendix G, however those 38 towns that haven't - don't have any regulations (inaudible - spoke too soft) regulations. So that is one thing that appendix G will do for those towns. I will tell you that because of the flooding in October, we've had a flurry of interest from other towns, particularly in the southwest part of the state where we see a lot of towns that don't participate. Mostly because they are farming but what would happen to them if they did have flooding. So we have about 8 communities that may potentially join the program, if they choose to do so at their town meeting. And the other piece I want like to mention to you, I did on your behalf sort of, call around to other states, and I tried to talk with FEMA to find out if other states had adopted appendix G, and how it was working, and . . . its pretty much of a cheese stand alone on this one. No other state has adopted appendix G. The State of PA has adopted kind of a hybrid version of it that they (inaudible) into their . . actually they have legislation on the books (inaudible) levels. But no other state at this particular point in time has adopted appendix G. I have heard that Louisiana and Mississippi are planning on adopting to appendix G, but I think the are planning on adopting everything they possibly can right now. So I think that that's . . and I looked over appendix G as carefully as I could. I had a couple of questions to FEMA about it. If it was totally consistent or not; I had a question on the lowest adjacent (inaudible) piece of the NFIP regulation which I didn't see in appendix G, so far no one's been able to answer that for me, from FEMA. I hope they will get back to me, and I will certainly let the Board know if I get an answer on that. The only concern that I would have is that if appendix G is adopted . . certainly for those towns that already belong, there would be some duplication in their regulations. So we would have to try to work pretty carefully with those towns to make sure that if they've gone beyond the minimum requirements of the NFIP that those regulations still stay on the books in those towns so they don't lose any of that. So there will be a little bit I think of coordination, and certainly outreach which we can try to do to make sure that everyone understands what's going on.

Chairman Clegg: Anybody have any questions? Jerry.

Jerry Tepe: Hi Jerry Tepe.

Joanne Cassulo: Hi.

Jerry Tepe: I'm the one who brought this forward, not with any particular agenda, but I just felt that in view of what happened in fact, earlier this year, we at least needed to have the conversation at the Board level, so that, you know, somebody couldn't say well you should have done it when it occurs for the next time. I guess, my . . . and maybe you sort of answered it, but I wanted to ask it as a specific question . . . does it in fact, **conflict** with the regulations that are out there, or is it as you are eluding to, just the coordination effort.

Joanne Cassulo: No there's no conflict. And I went over it pretty thoroughly. And I did talk . . . I found 1 person in FEMA that has a good handle on both the I Codes, and the FEMA regs. and there is no conflict at all. I had that one question about the lowest adjacent rate as a piece of the NFIP and that really determined whether you were in or out of a flood plane. And I was a little . . . I didn't really see that in appendix G and I was trying to figure that out and nobody has been able to answer me yet, so . . . I am hoping they will. As soon as I get that answer I certainly bring it to the Boards attention.

Jerry Tepe: I am glad to hear that because it was my understanding when appendix G was developed that they worked with FEMA in terms of . . .

Joanne Cassulo: They did.

Jerry Tepe: . . . coordination so that there would not be conflicts between the two of them. And I guess the other question for the other 38 or whatever that are not participating in the program . . . would something like this be beneficial to them.

Joanne Cassulo: I think it would be. Because a lot of those towns - some of the reasons they have for not joining are they don't want to adopt regulations - they don't want to have the Federal regulations. So it certainly would make it easier for them to enroll in the program if they want. Because they would just have to reference the State Code and the people would accept that since FEMA(?) has already signed off on it as being the minimum requirements.

Jerry Tepe: Um-hum (indicating understood)

Joanne Cassulo: So it would make it easier, and I think you would catch a few towns that have kind of been . . . you would have like . . . Gilmanton and a few others in the state that have been kind of hesitant and just did not want to add another layer of regulation to what they already have. And were hesitant about, you know, the kind of federal program.

Jerry Tepe: It is my understanding that appendix G is basically just an administrative tool and it really has no change in the technical provisions of any flood resistant or floodway construction.

Joanne Cassulo: Yea. It just pulls in all of the like manufactured housing and that part of it that's not in the administrative provisions, and the subdivision pieces of the NFIP. And I would also meet with the Board. There is a publication that FEMA put out with this . . I think they did it with co-council it's called Reducing Flood Losses Through The "I" Codes. And there is a crosswalk in here that compares the two so you can actually see that they are in agreement with each other with the regulations.

Chairman Clegg: Is there enough copies for everyone there?

Joanne Cassulo: No. I just made mine.

Chairman Clegg: That's ok.

Jerry Tepe. That's one? Oh boy.

Joanne Cassulo: Oh I'm sorry. It's enormous.

?: I think that should be yours, Jerry.

Chairman Clegg: I'll read it tonight.

Jerry Tepe: I am assuming it's available on the web.

Joanne Cassulo: Yes, it is. <http://www.fema.gov/pdf/nfip/ics.pdf>

Jerry Tepe: That we can publish as part of our minutes.

Chairman Clegg: If this . . and I'll be honest with you, I think that the Legislature is not going to like that if this Body passes this in a Public Hearing, but if we found a Bill that talked about handrails, and someone made an amendment to it to discuss this situation, would you be willing to come and testify?

Joanne Cassulo: Absolutely.

Chairman Clegg: ? Are there others you could drag behind you?

Joanne Cassulo: I could. It's a question if you want me to drag someone behind me. I can certainly get someone from FEMA to come. And I think I could probably . . . there's a couple of other people I know that have had experience with the Codes, at the Federal level . . .

Chairman Clegg: I'm not looking so much at the Codes, as . . . as . . . and I understand what we are trying to do, and . . .and . . . some of our I guess our flood victims ran afoul of flood insurance - didn't have any because their community hadn't adopted it. What I am trying to say is I think the issue is . . is much larger than looking at flood resistant construction because it talks about permits, and who can build in a flood plain. I'll tell you the story of a lady who said to one of the workers after the flood - on the West side - well the river's now

back to where it was 25 years ago before they filled it in, and they put the barn in. So, I that's as far as I tell them. So, I think . . . I think I understand what you are saying and maybe if you could give examples - or prepare examples of areas where no flood insurance has created a problem.

Joanne Cassulo: I can certainly do that. And where we just got back from Alstead yesterday and we are dealing with all of that stuff right now in fact the companies that told the homeowners that they were out of the flood zone and now that we are all in there looking - they're in the flood zone and whose liable for this because of the bank and the bank is not honoring any part of that. So this is a really serious situations for individuals going on. Kind of heart-breaking actually.

Chairman Clegg: Mike.

Mike Santa: You know, this whole issue is really just . . . sort of sprung. And I guess its all from the . . . whats happened with the hurricane and whatnot. If your community does not participate in the program, are you then as a resident, not able to get flood insurance?

Joanne Cassulo: You can't get federally subsidized insurance. You can still get insurance from . . . there's a couple of companies . . . like Lexington that sells insurance to non-participating communities, but you're gonna pay. You're gonna pay big bucks.

Mike Santa: Um-hum (indicating understood).

Joanne Cassulo: But there's very few . . . very few companies - Lloyds of London is another one that will insure with communities that don't participate. But you don't have those subsidized rates so its thousands and thousands of dollars.

Mike Santa: The other thing I've heard is . . . do the flood maps change? Or was there something, some new regulation last year? I am sort of fuzzy on the details.

Joanne Cassulo: There is an initiative . . . FEMA received a special appropriation from Congress to as they say 're-map' the United States. And, we've actually . . . New Hampshire now we're in our 4th county, but their not really doing, can't say a better job . . . but they're not really doing any new studies. So what they're doing is taking the information on the old maps and they're converting them to what they call digital maps.

Mike Santa: Ok.

Joanne Cassulo: So the only thing that really improved is that you can see structures a little better, because we have actually screened them with aerial photography now. And that we are now using a road layer from DOT so that the roads are now (inaudible) maps. You don't know where you are half the time, because the roads are non-existent. So that is an improvement. And slowly NH is . . . Rockingham, Strafford have the new maps. . . Cheshire and Sullivan will be final in May . . . next will be Hillsboro and Grafton County. So there will be an improvement but they really haven't done a lot of big new studies in NH. They have done the Connecticut River though.

Mike Santa: I guess what I am hearing too is that people that . . . supposedly were not in the flood plain. . . are now in the flood plain and are now being required to get flood insurance. And are now . . . I mean, in some cases the mortgage called and all of this stuff . . .

Joanne Cassulo: Because of the new maps?

Mike Santa: Yea. And. . . and its requiring them to hire (inaudible - someone coughing) to get elevations of their homes squared away. It seems as though . . I don't know . . its getting a little out of hand.

Joanne Cassulo: Yea. Well my guess is what I think is happening . . .because I have certainly had a lot of calls about that . . . is what I think is happening is that these . . .these determination companies . . .half of them are in Texas or Oklahoma. Now that they see the better maps, they can actually find the streets now. So probably people always were in, but before, the maps that they had, they just couldn't tell. I mean I am making calls on them. So I think right now, they're seeing better information cause we have more of the updated road data. So now they getting by their company, if they are going for a home equity loan or a re-mortgage you know, somebody is looking at it a little more carefully.

Mike Santa: Yea. Thank you.

Chairman Clegg: Chief Lambert

Chief Lambert: Right now, if you are in the federal program, enforcement comes from your office?

Joanne Cassulo: If you are in the program. . . its really . . . if you are in the program, you really you almost like sign a contract with FEMA that you are going to administer the program. If there's a problem at the local level, say a building inspector just throws up their hands they can't figure something out, they would call me. I would try to help if I could. If not, at least get to FEMA and get some engineer there to help figure out the problem. But a lot of it rests on the local . . . the local agencies or the building inspector, or the board of selectmen that's actually issuing the building permit.

Chief Lambert: So the adoption of this appendix G would not change that, it would just make the other towns, that aren't in it, those local officials would then have the responsibility.

Joanne Cassulo: Right. Yes and like I said, it may, you know, in some of those towns, it may . . . may be the little push they like to have so that they can adopt this whole NFIP (inaudible). more easily than they have in the past.

Chairman Clegg: Now when you say enrolled in the NFIP can you clarify that.

Joanne Cassulo: Yea I mean to actually apply to FEMA to join the National Flood Insurance Program. FEMA has an actual application process to join the NFIP. It's a lot of paperwork, what else is new. You have fill out an application, you have to certify that you have adopted the regulations at town meeting, or whatever your legislative body is, and this is adopted.

Subdivision regulations that apply, and then FEMA will take all of that and then enroll them in the program. And flood insurance will become available to those communities shortly thereafter, within 30 days, to purchase insurance.

Mark Weissflog: Electrical Contractors Business Association. Are there any communities in NH that do not have a flood issue?

Joanne Cassulo: There are a few that haven't been mapped. Which FEMA sometimes doesn't map, if its less than . . . I think if its less than a square mile, its off their radar they don't even . . . they won't even come in and do any mapping. Center Harbor doesn't have any map. Doubt . . . you will see some towns on that map I gave you, see they are kind of . . . in the Southwest part of the State they kind of fall over hilltop towns. You know you got Dublin, you got Harrisville . . .

Chairman Clegg: Lyndeborough.

Joanne Cassulo: Yea. A lot of those towns have felt that they're just not at risk. And they don't feel like they need to join. They don't feel they would ever flood. I had the conversation the other day with (inaudible) about that. They felt they hadn't experienced any flooding come October so they feel comfortable, and they don't want to join.

Chairman Clegg: Is there a cost to the community to join?

Joanne Cassulo: No. There really. . . no there's no cost. I mean there's certainly a cost . .

Chairman Clegg: Explain to me the concern that we'll say Dublin says, that they don't need to join.

Joanne Cassulo: I think . . . I think their concern is they don't feel like they want to add another piece of regulation that they are gonna have to deal with at the local level. I think that's usually what the reaction is. Having another layer, and having to do certain things when FEMA asks them to, and adopt the new maps and that's probably why.

Chairman Clegg: Any other questions? Seeing none, thank you very much for coming. I appreciate it.

Joanne Cassulo: Thank you.

Chairman Clegg: Is there anyone else who would like to speak on this? Seeing none. I will close the Public Hearing.

GENERAL MEETING:

Chairman Clegg would like this to get a full hearing as there are some tough sections in it.

Tedd Evans wanted to know how this effect that would be filtered down to the 1 and 2-family dwellings? If brought before the Legislature, would it cover everybody?

Chairman Clegg answered absolutely. Communities that adopt this, flood insurance can be gotten for like \$27.00 a year and if you don't its like \$3,500.00 a year. The Chair will put this Exhibit 16 on the handrail bill as an amendment for discussion.

Jerry Tepe asked if this would affect single family residential. He thinks it would not affect because the IBC says right up front that it does not cover 1 and 2 family dwellings. Tedd Evans suggested that the legislation say it pertains to both. Chairman Clegg said if we do adopt it through this Board, then a caveat would need to be put in to state it does not pertain to single family.

John Tuttle said the appendix purpose is to protect life and property. What is the percentage of damages between single dwellings or commercial/industrial damages in the recent floods? Chairman Clegg said that about 5% were commercial/industrial damages.

Chairman Clegg said that he will move this subject matter, to the legislature.

OLD BUSINESS

Adoption of meeting minutes from November 4, 2005.

Motion was made by Mark Weissflog to accept the minutes as written. Mike Santa **Seconded**. There being no further discussion or comments, vote was asked for. **Unanimous to accept** and so declared by the Chair.

Smart Codes - subcommittee report

Mike Santa reported that they did meet. They met with Fire Marshal Degnan and talked about the issues between the Life Safety Code and the International Existing Building Code. What they thought would be beneficial would be to have a couple of projects where they could analyze them. Mike contacted the Manchester Chamber of Commerce and they will get in touch with a couple of contractors.

The other issue is that the 2006 International Existing Building Code will be out in March. We might want to get a hold of it and compare it with the one we currently have adopted.

Legislation in the works

Regulation of home inspectors - HB 642 - the problem is everybody new should pay for the certification - full course at \$30,000+-. It's basically something to prohibit new home inspectors from coming into the 'business'.

Membership of the State Building Code Review Board - HB 1134 - Someone suggested that 'we' give up the volunteer fire chiefs position on the Board because they hear he does not show. The volunteer group said do not cut us out.

Municipal enrollment in the National Flood Insurance Program and adopting map amendments - HB 1330 - this is probably the piece of legislation where we should try and get Appendix G on.

Procedures for resolving disputes regarding construction defects between homeowners and contractors - HB 1537 - Chairman Clegg suggests that the Board just watch this one - its probably going to go on and on.

Including the IRC in the definition of the State Building Code - SB 234 - will see what happens.

Regulation of plumbers and water treatment technicians by the plumbers board - SB 359 - Rules Committee said they need statutory authority to do the things they want to. Dept of Labor is supposed to be in charge of where apprentices go. This is one you may want to watch and come in on.

HB 177 - Home improvement contracts - the argument for this bill is for those who get fleeced by bad contractors - it did nothing for the homeowner. Each amendment favored the contractor. If this amendment goes through it will hold the contractors personally responsible both civilly and criminally. The homeowner who hires someone who hires someone to come in and do something and then shorts the payment will also be held accountable.

NEW BUSINESS

No new business.

OTHER BUSINESS

Mike Santa was looking at some current RSA's for accessibility - wanted to know what the process was for taking an RSA off the books. Legislation does not always need to be drafted from scratch. You can add it to another bill.

ADJOURNMENT

Tedd Evans made the **Motion** to adjourn, duly **Seconded**. Vote was **Unanimous**.

Next Meeting Dates: February 10, March 10, April 14 and May 12